



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**TAXATION LAWS  
AMENDMENT BILL (NO. 5) 2003**

**Consideration in Detail**

**SPEECH**

**Wednesday, 26 November 2003**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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# SPEECH

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<b>Questioner</b>		<b>Responder</b>	
<b>Speaker</b>	Cox, David, MP	<b>Question No.</b>	

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**Mr COX** (Kingston) (10.37 am)—by leave—I move opposition amendments (1) to (3):

- (1) Schedule 1, item 14, page 15 (lines 11 to 16), omit subsection (2C).
- (2) Schedule 6, page 54 (line 1) to page 61 (line 9), omit the Schedule.
- (3) Schedule 8, page 69 (line 1) to page 79 (line 13), omit the Schedule.

Of the three amendments that I am proposing, the first is to schedule 1, and it relates to the revaluation of individual assets rather than an entire class of assets. This accounting standard provides that, when assets are revalued, all of the assets in a class need to be revalued at that time. The Taxation Laws Amendment Bill (No. 5) 2003 proposes an expedient which is designed to be a cost saving to business whereby, provided no asset in the class has gone down in value, it is possible for the company to simply revalue one asset in that class or a selection of assets in that class where their values have increased. That is simply for the purposes of judging whether they have breached the rules for thin capitalisation.

While it is a cost-saving expedient, it seems to me that it is undesirable to provide situations where companies depart from standard accounting practices. I am curious whether, without conducting a valuation according to appropriate principles, the companies are necessarily going to know if other assets in that class have in fact gone down or up. But, more particularly, unless all of those assets have been revalued, the ATO will have no audit trail to determine whether assets in that class have gone down in value, while the company may have ignored the fact that they had gone down in value and may have simply chosen to revalue some assets that had gone up in value so that they could meet the thin capitalisation test.

The second amendment relates to schedule 6, which would reduce the tax on excessive eligible termination payments. The excessive component of an ETP is that part of a payment that exceeds the taxpayer's reasonable benefit limit. The current RBL for a lump sum is \$562,192, and for a pension it is \$1,124,384. ETPs may have a number of components, but only some of them count towards the RBL and may result in an excessive benefit. In the case of a benefit paid by a super fund, these are the retained amount of the CGT exempt component, the retained amount of the pre-July 1983 component, 85 per cent of the untaxed element of the retained amount of the post-June 1983 component and the taxed element of the retained amount of the post-June 1983 component. Currently, the whole of an excessive component is taxed at the top marginal rate of 47 per cent plus the Medicare levy. The government's rationale for the reduction is the 15 per cent contributions tax already paid on that part of the ETP. The government will argue that the new 38 per cent rate and the contributions tax of 15 per cent are equivalent to the 47 per cent rate. However, the effective rate will differ according to the circumstances of individual taxpayers.

Schedule 6 will also reduce the superannuation surcharge for taxpayers receiving an ETP with an excessive amount. The surcharge on contributions will be reduced by the lesser of the amounts—the grossed-up excessive component or the surcharge on the contributions. (*Extension of time granted*) The excessive component is grossed up for any post-June 1983 taxed element by dividing that excessive component by 0.85 per cent. The reduction in the surcharge on contributions will prevent the surcharge applying in addition to the tax on the excessive component of an ETP for the year in which the ETP is paid.

When this bill was introduced, the shadow Treasurer announced that Labor would oppose this measure. This measure has a current estimated cost of \$5 million a year. Labor's policy is not to cut the surcharge for those on higher incomes but instead to reduce the contributions tax for all taxpayers. In particular, because of the unequal distribution of the benefits of this, the government's rationale for wanting to do it seems to me to be more an expedient than a precise matter of equity.

The third amendment deals with schedule 8, and that is to omit the schedule. Schedule 8 deals with tax losses. The Labor Party in its budget response announced that it would be opposing this measure, not because it has any

criticism of this measure at all but because a decision had been taken on the basis of priorities to use this money elsewhere, in particular for health, and that remains the opposition's position.